

Before The
Federal Communications Commission
Washington, D.C.

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JUN 29 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections of
the Cable Television Consumer
Protection and Competition
Act of 1992: Rate Regulation

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MM Docket No. 92-266

To: The Commission

**COMMENTS OF COURT TV IN THE
FIFTH NOTICE OF PROPOSED RULEMAKING**

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Dated: June 29, 1994

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SUMMARY

The Commission's current approach to rate regulation has all but frozen expansion among basic and enhanced basic cable programming networks. The Commission must act expeditiously to eliminate the recently imposed impediments to the launch and growth of new services.

Court TV, which provides full-time coverage of a wide range of law-related issues and activities, has been very well received by subscribers and initially achieved rapid penetration. However, since the FCC's rate regulations have been in place, growth of the network has nearly stopped, because the rules discourage operators from adding new channels to their service tiers. Under this scenario, new programming will reach fewer subscribers, limiting options for consumers and reducing much-needed advertising revenues for new services. These rules violate the First Amendment by dictating editorial decisions for cable operators. They also reduce competition and disserve the primary goal of the 1992 Cable Act, to promote diversity.

Court TV agrees with those Commenters and Petitioners for Reconsideration in the captioned proceeding who suggested that programming incentives be increased immediately to provide for a 25-cent flat fee instead of a 7.5 percent mark-up on programming. Court TV also endorses procedural reforms , that would eliminate existing disincentives for operators to add channels.

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**COMMENTS OF COURT TV IN THE
FIFTH NOTICE OF PROPOSED RULEMAKING**

The Courtroom Television Network ("Court TV"), by its attorneys, hereby submits comments in response to the Commission's *Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking*, FCC 94-38, MM Docket No. 92-266 (released March 30, 1994) ("*Fifth Notice*").

In the *Fifth Notice* the Commission sought comment "on whether our going-forward methodology should be modified to provide greater or lesser compensation to operators for adjustments to capped rates when channels are added or deleted from regulated tiers, and whether this would better meet our goals of encouraging infrastructure development and growth of programming." *Id.* at ¶ 256. Various parties already have provided such input in the form of Comments and Petitions for Reconsideration. ^{1/} Court TV agrees with these parties that the

^{1/} Petitions for Reconsideration were filed by United Video, Public Interest Petitioners, the Commissioner of Baseball, Viacom International, Inc., and Eternal

Commission must act expeditiously to enhance the incentives for new programming services.

Court TV believes that the Commission's current approach to rate regulation has all but frozen expansion among basic and enhanced basic cable programming networks. This has created substantial barriers to the launch and growth of new competing services. These effects of the rules undermine the policies underlying both the Communications Act of 1934 and the Cable Consumer Protection and Competition Act of 1992, and violate the First Amendment. It is particularly disturbing that a law that was designed to increase programming diversity is serving to restrict the expansion of high quality networks such as the Courtroom Television Network.

I. BACKGROUND

Court TV, the only television network devoted to in-depth coverage of legal issues, was launched on July 1, 1991. Court TV provides live broadcasts of trials, legal commentary, news on law-related topics and other special programming. As Court TV approaches its third anniversary, it has greatly expanded the amount and types of original programming provided to subscribers. Examples include: Prime Time Justice, a daily live wrap-up program featuring the most important testimony from the day's court proceedings; and weekly programs, such as The System, which follows cases in one specific community from the street, to the police precinct and to the courthouse, and finally to incarceration and parole;

Word Television Network. Additionally, supporting comments were filed by Ovation, Inc. and PBS Horizons Cable Network ("Programming Providers"), the Times Mirror Company, the Arts & Entertainment Network and ESPN, Inc. and Continental Cablevision. *See also* Opposition of Discovery Communications, Inc.

Verdicts and Justice, a retrospective analysis of the most critical and dramatic cases in America's courtrooms; In Context, in which Harvard Law School Professor Arthur Miller and an expert panel examine compelling legal and social issues arising from cases covered on Court TV; Trial Story, in which the network's most important trials are summarized in one and two-hour programs; Washington Watch, devoted to Washington-based legal news and judicial issues; Lock & Key, which examines the fate of convicted prisoners through a review of sentencing, parole and death penalty hearings; and Instant Justice, which covers proceedings in municipal and night courts from across the country.

In addition to new, original programming, Court TV has made a strong, tangible commitment to presenting public affairs and educational programming. For example, the network has launched a year-long campaign entitled American Violence, American Justice to examine the legal and social issues surrounding violent crime. All of Court TV's prime time programs will devote special segments to addressing the American Violence, American Justice theme. Also, each year the network selects up to four cities for the presentation of nationally-televised town meetings. Court TV works cooperatively with the local cable operator, local community leaders, educators, attorneys, journalists and students to present discussions of current legal or social issues important to the community.

A centerpiece of Court TV's public affairs efforts is its work with schools, and in particular, with Cable in the Classroom. ("CIC"). Through CIC, the network provides monthly one-hour summaries of trials involving important legal and social issues affecting children and young adults. ^{2/} For each CIC program,

^{2/} Topics presented during 1993-94 have included: Instant Justice: Teens in Court; A Teenage Killing: Jealousy or Drugs?; The 1993 National High School Mock Trial Championship; Instant Justice: Everyday Problems in Court; Lock &

teachers can obtain a companion study guide that suggests the issues to be discussed both before and after viewing of a program. For example, the study guide accompanying the program *A Teenage Killing: Jealousy or Drugs?* is designed to provoke discussion of the use of steroids and teen relationship abuse, and to familiarize students with diminished capacity as a defense. ^{3/} As part of a specific educational campaign designed for Southern California, Court TV produced a videotape for California high schools to explain the details of the Reginald Denny trial and to outline the issues facing the jury. After the verdicts, the network, in conjunction with other organizations, hosted a town meeting with high school students in Pasadena to discuss both the Rodney King and Reginald Denny trials. ^{4/}

Court TV also is a major sponsor of the annual National High School Mock Trial Championship. To support this valuable educational program, the network has started a campaign called *Class Action* designed to help teachers and students create mock trial programs in their schools. Court TV also produces and airs a two-hour documentary each year on the national mock trial championship that includes interviews with students, their teachers and their attorney-coaches. The program also shows the final competition round.

All of these on-air educational initiatives are incomparably enhanced by Court TV's "Casemaker" project. Casemaker is a multimedia computer program created by Court TV to help students learn about the justice system. Casemaker,

Key: Inside a Parole Hearing; The AIDS Underground: Breaking the Law for "the Greater Good?".

^{3/} See Study Guide, *A Teenage Killing: Jealousy or Drugs?*, attached as Exhibit 1.

^{4/} See 1994 Beacon Awards Entry, *Faces of Justice: The Trials of Southern California*, attached as Exhibit 2.

whose first version focuses on the Rodney King case, gives students access to transcripts and video of the trial, as well as a vast data base of related information. Casemaker encourages students to play the role of the defense and prosecution; the students then present their own multimedia "closing arguments" about a real-life case that affected the entire country. Court TV plans to give away copies of Casemaker to teachers interested in incorporating it into their curriculum. The first such Casemaker was used this Spring as an evidence "textbook" in Professor Charles Nesson's Harvard Law School class, and in a seventh grade class in New York City.

Court TV's extensive public affairs and educational efforts have been well-received. In a national survey of high school teachers conducted in 1994 by Malarkey-Taylor Associates, teachers were asked about the importance and educational value of the network. Of all teachers surveyed, the vast majority believed that Court TV is important because it allows students to see the justice system in action (84%); that it helps students to understand many aspects of the law (69%); that it constructively presents current issues of social interest (62%); that it focuses on justice being served, unlike shows that focus on violence (72%); and that watching Court TV should be recommended (75%). Teachers who had previously watched Court TV were even more enthusiastic in their responses. A full ninety percent said that Court TV is important because it enables students to see the justice system in action, and 87 percent said that Court TV focuses on justice being served rather than violence. ^{5/} Nearly 80 percent of the teachers said that Court TV should be available in the schools.

^{5/} Responses were higher in every category for teachers who had watched Court TV. For example, 80 percent said that Court TV helps students understand many aspects of the law, 85 percent said that Court TV constructively presents current issues of social interest; and 79 percent of the teachers said they would recommend

According to *Cable in the Classroom*, teachers rate Court TV as one of the best sources of educational programming out of the television and cable networks available in schools. On a scale of 1 to 100, Court TV ranked third, slightly behind PBS and Discovery, but ahead of other quality networks such as The Learning Channel, CNBC, C-Span and Mind Extension University. 6/

Court TV also addresses the needs of adult education through its Continuing Legal Education program. In July 1994, for example, Court TV will present weekend programs for which CLE credit may be obtained in many jurisdictions. Topics include Irving Younger on Jury Selection, Directors' and Officers' Liability, Multimedia and the Law, Litigating Trademark and Unfair Competition Cases and a Seminar for Inside and Outside Counsel on legal management issues.

Court TV brings these public affairs and educational efforts to the Commission's attention not just because the network is justifiably proud of its programming. Rather, the social benefits inherent in this type of network should be a central factor in the FCC's public interest determination regarding programming incentives. As others have pointed out, the Cable Consumer Protection and Competition Act of 1992 specified as its overriding purpose the enhancement of programming diversity. 7/ The Commission should implement the Act in a way that promotes this congressional purpose.

that their students watch Court TV. See High School Teachers Value Court TV, attached as Exhibit 3.

6/ On a scale of 1-100, the various networks received the following ratings: PBS (89), Discovery (86), **Court TV (86)**, CNN (86), The Learning Channel (84), CNBC (84), C-Span (82), Mind Extension University (76), X-Press (50) and VISN (47). See *Cable in the Classroom: Teacher Ratings*, attached as Exhibit 4.

7/ 47 U.S.C. § 521(b). See also Petition for Expedited Reconsideration of Public Interest Petitioners (filed May 16, 1994) at 6-8.

Yet there is an even more fundamental public interest issue here. For 60 years the FCC has promoted the public interest by seeking to improve the quality and diversity of broadcast programming. Just this week, the Commission conducted hearings seeking advice on how best to implement the Children's Television Act of 1990 so as to increase the quality and quantity of educational and informational programming available to America's youth. Additionally, various public officials, including the Commission's Chairman, have expressed concern over the amount of violence depicted on the mass media. ^{8/} But there is only so much that the government can do in a free society to promote officially favored speech. The First Amendment does not permit the FCC or Congress to compel officially "approved" messages or to prohibit "disfavored" speech. ^{9/}

Yet ironically, Court TV -- without any governmentally-imposed mandates -- is serving the very same public interest goals that the Commission has found so elusive over the past half century. In many ways, the network is fulfilling the promise that many early visionaries held out for the television medium. Court TV has provided a window into the daily workings of the judicial system and has worked to make that system more understandable to millions of Americans. The network strives to put the vital issues confronting the justice system into perspective, by following cases from beginning to end, by shining a spotlight on the darkened, little noticed corners of the system, and by providing analyses of legal

^{8/} *Hillary Clinton Decries Excess Violence in TV News*, BROADCASTING & CABLE, March 14, 1994 at 47; Speech by Chairman Reed Hundt at the NATPE/INTV Convention, Miami, Florida, January 24, 1994.

^{9/} See, e.g., *Turner Broadcasting System v. FCC*, 1994 WL 279691 (1994) ("the Commission may not impose upon [licensees] its private notions of what the public ought to hear"); *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 213 (1975) ("Speech cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks suitable for them.").

issues by world-class experts. Additionally, Court TV extends its reach beyond the television screen to work directly with educators, local community leaders and with young people to underscore the importance of law in the daily lives of American citizens. And in everything it does, Court TV provides the ideal antidote for violence on TV. Not only do viewers of Court TV see the world's most celebrated system of non-violent argument, they also see those who are charged with committing violence brought to justice.

Court TV, as well as other quality cable television networks, represents the type of programming diversity and consumer service that the FCC has long sought to encourage. But the Commission seems to be conflicted in its view toward cable television programming incentives. It has asked for industry comment on the issue, yet appears to wonder whether it can afford to permit greater incentives for programming. Perhaps the better question is, can the Commission afford not to? Handicapping the growth of such networks would disserve mandates of both the Cable Act and the Communications Act to increase programming diversity.

II. THE FCC'S CABLE RATE REGULATIONS HAVE THWARTED THE ADDITION AND GROWTH OF "BASIC" CABLE NETWORKS

A. The Commission's Rules Freeze Regulated Tiers in Place and Entrench Current Programming Services

The FCC's approach to rate regulation all but forces a freeze of existing programming services. The current rules provide no incentives to add programming channels to regulated tiers and at the same time exact a heavy regulatory price for operators who make any additions to regulated tiers. The Commission's "Upgrade Incentive Plan" is expressly premised on operator agreements to freeze current

rates and services for a period of years. What started as an effort to regulate rates has evolved into a regulatory mechanism that makes it far more difficult for new speakers to emerge, regardless of subscriber preferences. The current approach is both statutorily and constitutionally deficient.

As has been made abundantly clear to the Commission, the 7.5 percent markup for the addition of new programming services provides no incentive to add channels to regulated tiers. ^{10/} In most cases, the addition of a new service to a regulated tier would net the operator a penny or two per subscriber. At this rate, it would take more than two years for the operator to recover the cost of notifying his subscribers of the change. Yet even if there were more of an incentive, the current rules impose significant penalties on operators who add new services to regulated tiers. For example, a complaint filed in the 45-day period following a rate increase opens a cable system to liability for its entire rate structure, not just the amount of the increase. This is true even where a system has received no complaints about its initial rates. Any operator that makes a change in its regulated offerings risks reopening examination of its entire rate, and could face refund liability extending back for a one-year period. The current rule is contrary to the statute, and acts as a significant bar to adding any new services. ^{11/}

Through these provisions, the Commission appears to have inadvertently created steep barriers to the introduction of new basic or enhanced basic channels. But other aspects of the Commission's rate regulation orders make

^{10/} See generally Petition of United Video at 8; Petition of Public Interest Petitioners at 11-14; Petition of Eternal Word Network at 2-4; Comments of Programming Providers at 8-13; Comments of Times Mirror Company at 3-5; Comments of A&E and ESPN, Inc. at 8; Response of Continental Cablevision at 4-9.

^{11/} See Comments of A&E and ESPN, Inc. at 19; United Video Petition at 9; Programming Providers Comments at 13-16; Public Interest Petition at 12-15.

this appear to be an *intended* effect. The Commission's "Upgrade Incentive Plan" is based on a freeze of existing regulated rates and services. Under the plan -- which to date has not produced any takers -- an operator would enter what has been called "a social contract with its customers" in which it agrees to freeze existing rates and services. *Cost of Service Order* at ¶ 296. As has been demonstrated in other comments, this plan is unlikely to lead to additional investment in new regulated services. 12/ The Commission has even acknowledged that the primary opportunities for producing income by operators will be from unregulated services. *Second Order on Reconsideration* at ¶¶ 59, 61.

These regulatory choices have had a profound effect. Although Court TV has been well-received from its inception, its growth pattern has been similar to that of virtually all other basic cable networks launched since 1980. Most networks experience several years of slow growth as cable operators test consumer responsiveness to a new programming concept. Typically, there also is a period involving intensive negotiations between cable operators and programmers which cause rates to evolve to a market level.

When Court TV was launched, it would have been prudent to expect that the network would be fully distributed to virtually all cable subscribers within five to seven years. In fact, the potential growth of competitive technologies (DBS, wireless systems and common carrier-provided video services might well have intensified that trend, but the Cable Act of 1992 has scrambled traditional patterns of cable distribution. Court TV believes that competition is the most effective form of regulation. However, the latest round of FCC rate rules stifle competition among program networks and makes it particularly difficult for new services to emerge. Court TV has been penalized by this development disproportionately because the

12/ See Comments of A&E and ESPN, Inc. at 17-18.

rulemaking took place at a moment when the network was positioned for exponential growth. In fact, Court TV gained over 3.5 million subscribers just before the rate regulations went into effect in September 1993. Since that time, however, growth of Court TV has all but stopped.

Court TV, and other programming networks in a similar position, will have a difficult time succeeding if the FCC does not change its rules. Indeed, it is safe to assume that certain "core" services such as CNN, The Discovery Channel and C-Span would never have survived if forced to launch under current market-place conditions. This result is antithetical to the purpose of the Cable Act.

**B. The Regulatory Bar to New "Basic" Channels
Has Crippled the Growth of Court TV**

The regulatory limits on new basic or enhanced basic channels have had the effect of moving new channel additions into unregulated categories. Thus, under the Commission's current approach to rate regulation, the only way a cable operator can generate a meaningful return on incremental programming is by offering a service through á la carte packages. This is not intended to suggest that such packages have no place in offering cable services. Quite to the contrary, Court TV endorses a flexible approach to enable operators to strive for higher penetration levels. But by making this type of offering virtually the *only* way to add new networks, the Commission has cut off time-tested methods of introducing new programming services.

The net effect of the rules is to make Court TV available in comparatively fewer households among systems where it has launched. This is because new launches have occurred on low penetration tiers, rather than on basic or enhanced basic tiers. On average, nine out of every ten systems carrying Court TV when the Cable Act was adopted in 1992 did so on a basic tier. Now, only seven

out of ten do so. ^{13/} Over time, this phenomenon reduces the proportion of system subscribers in affiliated systems that receive Court TV. In 1992, Court TV was seen by 88 percent of the homes in its universe of affiliated systems. Today, Court TV is seen in only 77 percent of the homes in its affiliated systems. ^{14/}

The Commission should not assume that networks launched as part of à la carte packages have failed to achieve high penetration because they are unpopular. Indeed, Court TV and most of the networks that have been grouped with it in à la carte packages are delivering strong ratings and are very viable concepts in a basic cable environment. The ratings are competitive with -- and in some cases exceed -- those of established competitors that have been grandfathered in basic channel line-ups. These ratings would produce significant advertising sales profitability if the subscribing universe of the networks were larger. But under the current rules, profitability will be marginal. Unless the rules are changed, these networks will never be able to reach their full potential from either a creative or financial standpoint.

C. The Current Rules Undermine the Cable Act's Diversity Goals and Violate the First Amendment

The rate regulations have had the effect of drawing a line between well-established, mature cable programming services and new emerging networks. Services that are well-established on regulated tiers are locked in by regulatory protections, while those striving to bring a fresh voice to the media marketplace are confronted with successive bureaucratic hurdles. ^{15/}

^{13/} See Court TV Distribution Growth, attached as Exhibit 5.

^{14/} See Court TV "In Front Of" Estimates, attached as Exhibit 6.

^{15/} Presumably, current rules permit an operator to substitute a new cable programming service for an existing network on a regulated tier. However, such an

Government policies that compel operators to freeze existing service offerings disserve the goals of the Cable Act, reduce competition and violate the First Amendment. The current FCC rules governing cable TV rates dictate editorial decisions made by cable operators, and thereby restrict speech. The regulations ensure that cable operators make tiering decisions based on rule-based economic factors rather than subscriber desire for programming.

This type of market distortion was never intended by Congress when it adopted the Cable Act. Quite to the contrary, Congress sought to "promote the availability to the public of a diversity of views and information through cable television" and to "rely on the marketplace, to the maximum extent feasible, to achieve that availability." 47 U.S.C. §§ 521(b)(1)-(2). Rules that have the effect of hampering the emergence of new networks could not be further from the congressional purpose.

The disproportionate burdens created by the current rules also raise constitutional concerns. It is well established that regulations that discriminate among media or between different speakers within a medium may violate the First Amendment. This is true even for economic regulations that are facially neutral, but whose "practical application" imposes a heavier burden on a selected class of

action will likely affect the tier rate, which in turn determines the operator's ability to make the editorial decision. For example, an operator who replaces an existing network with a lower-priced service will be required to adjust its rates accordingly. 47 C.F.R. § 76.922(d)(3)(ii). The rate change in turn opens a 45-day complaint window that subjects the operator's entire rate structure to Commission review. Public Notice, Mimeo No. 41723 (released Feb. 9, 1994) at 1. On the other hand, an operator who replaces an existing, free "fishbowl" channel with Court TV, or some other substantive service, is permitted to adjust its rates upward (by a very small amount). But in doing so, the operator again opens the rate structure to review. In these circumstances, operators are expected to make very few changes in regulated services, even when the changes involve only substitutions of one network for another.

speakers. See *Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue*, 460 U.S. 575, 585, 591-92 (1983); *Arkansas Writers' Project, Inc. v. Ragland*, 481 U.S. 221 (1987); *Grosjean v. American Press Co.*, 297 U.S. 233 (1936). It is not necessary to demonstrate some illegitimate government purpose to present a constitutional problem. It is sufficient that the effect of the regulation is to "distort the market for ideas." *Leathers v. Medlock*, 499 U.S. 439, 448 (1991).

The rate regulations at issue are not "justified by some special characteristic of the particular medium being regulated." *Turner Broadcasting System v. FCC*, 1994 WL 279691 (decided June 27, 1994), quoting *Minneapolis Star*, 460 U.S. at 585. For constitutional purposes, the networks that are treated favorably by the current rules are indistinguishable from those facing greater burdens. Moreover, no significant governmental purpose is served by favoring certain networks over others. Instead, as noted above, key statutory goals are subverted by the current approach. Under these circumstances, the Commission must reconsider its rate regulations.

Even more troubling is the fact that the Commission strayed from content neutrality to an impermissible discrimination among programming services in its criteria for evaluating à la carte offerings. For example, the FCC is likely to disapprove channel migration where an unspecified number of channels are "removed from regulated tiers," where such channels "have not traditionally been marketed à la carte," or an a la carte package "includes channels that were removed from lower tiers." *Second Order on Reconsideration* at ¶ 196. In other words, to whatever extent the rules do not have the effect of freezing existing offerings in place, the Commission appears to be prepared to enforce existing channel alignments by administrative fiat. This is plainly unconstitutional.

III. THE FCC MUST ADOPT MEANINGFUL PROGRAMMING INCENTIVES AND ELIMINATE DISINCENTIVES

Based on the concerns described above, Court TV believes it is imperative for the Commission to make significant modifications in its rate regulations. The network appreciates the fact that the Commission has signaled its intention to address these issues. Moreover, Court TV is sensitive to the concerns, expressed by Chairman Hundt, that "not all of the proposals are consistent with each other" and that expedited Commission action would be facilitated by a consensus industry position. 16/

While various specific proposals have been advocated to the Commission, Court TV believes that a consistent core position can be derived from the various comments. The Commission now has sufficient information before it to make the necessary modifications in the rules. Court TV hereby indicates which of the proposals should be adopted to end the basic service freeze.

Programming Incentives. The current 7.5% markup provides zero incentive to add to the basic or enhanced basic tiers and discriminates in favor of more expensive programming services. The upgrade incentive for regulated channels should be based on a flat fee rather than a small percentage markup. Court TV endorses the 25-cent flat fee proposal advocated by Programming Providers. 17/

A flat fee incentive in this amount, added to a markup for the amount of the licensing fee, could provide sufficient return to encourage greater investment

16/ Chairman Reed E. Hundt, *Speech Before the 43rd Annual Convention and Exposition of the National Cable Television Association*, New Orleans, May 24, 1994.

17/ See Comments of Programming Providers at 11-13. See also Response of Continental Cablevision to Petitions for Reconsideration, filed June 16, 1994 at 10-12; Comments of A&E and ESPN, filed June 16, 1994 at 8-13.

in regulated tiers. Court TV has analyzed its prospective growth rate based on the current rules as well as under a flat fee incentive plan. Based on this analysis, Court TV projects an increase of 4 to 6 million subscribers in a 12 month period if the Commission adopts a 25 cent flat fee approach. Without such an incentive, Court TV's growth will be minimal. 18/

Procedural Reforms. The Commission must change a number of its procedural rules in order to encourage new investment in regulated service offerings. Without some change in the rules, there will be no new investment in regulated services. Specifically, the FCC should clarify the rules so that a change in services or rates does not reopen the operator's entire rate structure for review. 19/ Additionally, operators should be permitted to upgrade regulated channel capacity without having to go through a cost of service proceeding. 20/

Generally, as outlined above, the Commission should promote the creation of basic and expanded basic programming services. However, the Cable Act supports the development of expanded per channel offerings as well, and the Commission recently articulated 15 guidelines by which these service offerings will be evaluated. Unfortunately, the guidelines have confused the issue, and have deterred the migration of established services. The Commission should act to reduce the level of confusion and allow operators sufficient flexibility to create high penetration packages, where appropriate.

18/ See Chart, Court TV Subscriber Growth, attached as Exhibit 7.

19/ See United Video Petition at 9; Programming Providers Comments at 13-16; Public Interest Petition at 12-13; Comments of A&E and ESPN at 18-19.

20/ See United Video Petition at 2-4; Programming Providers Comments at 17-19; Comments of A&E and ESPN at 18-19.

It is imperative that cable operators be given the ability to migrate established services to bolster the marketability of á la carte offerings, but only to the extent this is consistent with existing affiliation contracts. Without a doubt, certain services are more appropriate as core offerings on a regulated tier than as á la carte services. But such tier placement should be a marketplace, not a governmental, decision. 21/

CONCLUSION

The Commission must act expeditiously to create realistic incentives for new programming services. For any action to be effective, however, the FCC must eliminate the disincentives to expanding programming offerings, as well as providing sufficient incentives. Finally, any action must take place quickly in order to have a beneficial effect. Any undue delay in reaching a decision will stifle the

21/ See generally Comments of Programming Providers at 19-24.

launch of new services through the end of the year. Court TV respectfully requests that the Commission adopt the modifications proposed in this proceeding.

Respectfully submitted,

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NETWORK

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EXHIBIT 1



COURTROOM TELEVISION NETWORK

"A Teenage Killing: Jealousy or Drugs?"

PURPOSE

To provoke discussion on the use of steroids and teen relationship abuse, and to familiarize students with diminished capacity as a defense.

BRIEF DISCUSSION BEFORE VIEWING

Discuss diminished capacity (not capable of the sort of critical analysis that goes into premeditated murder). What would the students consider to be "diminished capacity?"

LEGAL ISSUES FOR DISCUSSION AFTER VIEWING

The defense claims the defendant, Jamie Fuller, was driven by a combination of drugs, alcohol and depression, which led to his confused state of mind the day of the killing. What evidence supported this?

What evidence did the prosecution have to support their claim of premeditation?

Jamie Fuller did not take the stand and testify in his own defense because his attorney was concerned the prosecutor would provoke anger in him. It would also provide the opportunity for exploring the killing and Jamie's thought processes. How does his not testifying affect your opinion?

The jury was not allowed to hear that Jamie had been convicted of assault with a dangerous weapon in 1990 and again in 1991 since juvenile records are inadmissible. Does this information affect your opinion?

SOCIAL ISSUES FOR DISCUSSION

Why are steroids illegal? What are they used for and what are the side effects? Why would teenagers and others believe they are worth the risk?

If a person takes an illegal drug and then commits a crime because of it, should they be held responsible?

If a friend told you they were going to kill their boyfriend or girlfriend, would you believe them? Under what circumstances would you believe them? Do you have friends who hit each other? What is acceptable behavior between boyfriends and girlfriends?

SUGGESTED ACTIVITY

After reading the attached Newsweek article, "Boy Meets Girl, Boy Beats Girl" discuss what would be considered relationship abuse, both physical and emotional. Develop a questionnaire for the students in your school to see how many students have either witnessed abuse or been directly involved in it.

Study Guide

Steroids and Teenagers

- ☐ Anabolic steroid - a synthetic derivative of the hormone testosterone
- ☐ An estimated 250,000 to 1 million American teenagers use steroids
- ☐ Teenagers take steroids to enhance physical appearance, enhance physical condition, and build self-esteem
- ☐ The majority of steroid users are between 16 and 24 years old

Physical Side Effects of Steroids

- | | |
|---|---|
| <input type="radio"/> Increased weight/strength | <input type="radio"/> Heart attacks |
| <input type="radio"/> Testicular atrophy | <input type="radio"/> Strokes |
| <input type="radio"/> Impotence | <input type="radio"/> Cirrhosis |
| <input type="radio"/> Increased sex drive | <input type="radio"/> Toxic hepatitis |
| <input type="radio"/> Prostate enlargement | <input type="radio"/> Kidney disease |
| <input type="radio"/> Cancer | <input type="radio"/> Cholesterol imbalance |
| <input type="radio"/> Jaundice | |

Psychological Side Effects of Steroids

- | | |
|--------------------------------------|------------------------------------|
| <input type="radio"/> Aggressiveness | <input type="radio"/> Paranoia |
| <input type="radio"/> Mood swings | <input type="radio"/> Belligerence |

National Steroid Research Center

1-800-STEROID

Study Guide

Alcohol and Teenagers

- O Alcohol is America's #1 drug problem among youth
- O 92% of all teenagers have tried alcohol
- O 35% of high school seniors have had five or more drinks in a row in the last two weeks
- O 33% of high school seniors believe there is no great risk in having four or five drinks daily
- O 4% of all teenagers drink daily
- O Children of alcoholics have four times greater risk of developing alcoholism than children of non-alcoholics